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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/711,308

09/09/2004

Phillip Kent Niccum

04-10

5307

32583 7590 10/03/2008
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EXAMINER

BOYER, RANDY

ART UNIT

PAPER NUMBER

1797

MAIL DATE

DELIVERY MODE

10/03/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<p align="center">Advisory Action Before the Filing of an Appeal Brief</p>	<p>Application No. 10/711,308</p>	<p>Applicant(s) NICCUM ET AL.</p>	
	<p>Examiner RANDY BOYER</p>	<p>Art Unit 1797</p>	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 22 September 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: none.
Claim(s) objected to: none.
Claim(s) rejected: 1,4-6,21-25 and 27-33.
Claim(s) withdrawn from consideration: none.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Glenn A Caldarola/
Acting SPE of Art Unit 1797

Continuation of 11. does NOT place the application in condition for allowance because:

Applicant's arguments are not persuasive to overcome the previous rejections of the claims as set forth in the Office Action mailed 24 July 2008. Consequently, the claims would be rejected as follows:

(a) Claims 1, 5, 6, 21-25, and 27-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Parker (US 4,692,311). Alternatively, claims 1, 5, 6, 21-24, 26, and 27 are rejected under 35 U.S.C. 103(a) over Parker (US 4,692,311) in view of Simpson (US 7,108,138) and as further evidenced by Dewitz (US 5,869,008) or Ko (N.W.M. Ko & A.S.K. Chan, In the Intermixing Region Behind Circular Cylinders With Stepwise Change of the Diameter, 9 EXPERIMENTS IN FLUIDS 213-221(1990)) or Mori (US 6,041,754) or Wasif (US 2005/0016178) or Hwang (US 2005/0183664); and

(b) Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Parker (US 4,692,311) in view of Fandel (US 5,843,377). Alternatively, claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Parker (US 4,692,311) in view of Simpson (US 7,108,138) and Fandel (US 5,843,377).

1. Applicant argues that no person having ordinary skill in the art would ever consider the sintered stainless steel ring of Parker to be the equivalent of a "plurality of apertures" or "plurality of unobstructed openings" as required by Applicant's claims. Applicant argues that it is well known and widely recognized that sintered metal rings (such as that disclosed by Parker) are solid structures that do not have "unobstructed openings."

In response to Applicant's arguments, Examiner notes that Applicant has not provided any specific definition for "aperture" or "opening" in Applicant's specification. In addition, Examiner does not consider "aperture" or "opening" to be terms of art having any special meaning other than that ordinarily used in the English language. In this regard, Examiner notes that ordinary, simple English words whose meaning is clear and unquestionable, absent any indication that their use in a particular context changes their meaning, are construed to mean exactly what they say. See MPEP 2111.01 (citing *Chef America, Inc. v. Lamb-Weston, Inc.*, 358 F.3d 1371 (Fed. Cir. 2004)).

Parker discloses (at column 6, lines 22-26): "Air and ammonia or water were injected THROUGH an annular plenum 33 and a sintered stainless steel ring INTO the bottom of the catalyst bed 35" (emphases added) (see Parker, Fig. 2 with accompanying text). Thus, if Applicant's argument (that the sintered metal ring of Parker is a solid structure having no "unobstructed openings") were accepted as true, then Parker's stripper cyclone would be completely inoperable as there would be no means by which the injected air and ammonia could pass through the annular plenum (33) and into the catalyst bed (35).

2. Applicant argues that introducing diffuser air at a cylinder diameter larger than the cyclone outlet diameter (as suggested by Simpson) directly teaches away from a stripping section having a cross-sectional area less than a cross-sectional area of a cyclone section.

In response to Applicant's argument, Examiner notes that Applicant cites Simpson (column 6, lines 16-19) for support of such argument. That portion of Simpson provides: "It has been found that in order to enhance and aid the interior vortex 702 development, one needs to introduce diffuser air 304 at a cylinder diameter 342 which is larger than the cyclone outlet diameter 103." However, there is nothing inconsistent with the cited portion of Simpson and Applicant's claim limitation for providing a stripping section having a cross-sectional area less than a cross-sectional area of a cyclone section. Indeed, the design of Simpson's own device meets this limitation (see Simpson, Fig. 2) (showing upper portion of the cyclone housing (101) (cyclone section) having a LARGER cross-sectional area than a lower portion (stripping section) of the cyclone housing (101) near cyclone outlet (103)). Moreover, Examiner notes that such design (i.e., the separator having a stripping section with smaller cross-sectional area than a cyclone section) is STANDARD in the art of cyclonic separators (see e.g., Simpson, column 5, lines 5-13) ("This cyclone geometry WELL KNOWN IN THE ART creates a circular flow around the exterior portion of cyclone housing 101 . . .") (emphasis added).

RPB

/Glenn A Caldarola/
Acting SPE of Art Unit 1797